



Midwestern Governors Association

---

December 16, 2008

**Docket #: EPA-HQ-OW-2008-0390**

The Honorable Stephen Johnson  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

444 North Capitol Street, NW  
Suite 401  
Washington, DC 20001-1512  
Tel: 202.624.5460  
Fax: 202.624.5452

Regional Office  
701 East 22nd Street  
Suite 110  
Lombard, Illinois 60148  
Tel: 630.925.1922  
Fax: 630.925.1930  
[www.midwesterngovernors.org](http://www.midwesterngovernors.org)

Dear Administrator Johnson:

On behalf of the Midwest Governors Association (MGA), we commend the Environmental Protection Agency on its effort to facilitate the injection of CO<sub>2</sub> for long-term geologic sequestration (GS). Greater regulatory certainty will help advance the deployment of carbon capture and sequestration projects. Our comments are based on the role of geological sequestration within the context of established MGA regional goals and objectives. We offer comments below in the following areas: (1) the adaptive approach, (2) the implications of the rule on CO<sub>2</sub>-enhanced oil recovery (EOR) projects, and (3) the role of states in implementation of the rule.

The development of GS is an important strategy within a portfolio of options for the Midwest region to reduce greenhouse gas emissions. In 2007, we endorsed the *Energy Security and Climate Stewardship Platform* (Platform) that includes a broad range of measurable goals, policies and initiatives to transition the Midwest to a lower carbon energy economy. Priorities include the development of energy efficiency, bio-based products and transportation, renewable electricity and advanced coal with carbon capture and sequestration (CCS).

The Midwest region depends heavily on coal-fired generation and has significant coal and oil resources. These resources are also located in close proximity to formations that are likely suitable for geologic sequestration, specifically saline aquifers and depleted oil and gas fields. Thus, the Platform supports the development of a CO<sub>2</sub> management infrastructure and demonstration and commercialization of large-scale geologic sequestration projects that take advantage of our region's EOR potential. The Midwest has significant experience in

Chair  
**M. Michael Rounds**  
South Dakota

Vice Chair  
**Jennifer Granholm**  
Michigan

Past Chair, 2005  
**Rod Blagojevich**  
Illinois

**Matt Blunt**  
Missouri

**Chester J. Culver**  
Iowa

**Mitch Daniels**  
Indiana

Past Chair 2007  
**Jim Doyle**  
Wisconsin

**Dave Heineman**  
Nebraska

Past Chair, 2004  
**John Hoeven**  
North Dakota

Past Chair, 2006  
**Tim Pawlenty**  
Minnesota

**Kathleen Sebelius**  
Kansas

**Ted Strickland**  
Ohio

both EOR and in the transport of CO<sub>2</sub> through pipelines. These EOR projects would be part of a broader CO<sub>2</sub> management strategy to capture CO<sub>2</sub> from various sources and effectively leverage projects to build-out an infrastructure that could support long-term CO<sub>2</sub> sequestration across the region.

The MGA would like to address a few areas of the proposed rule within the context of the goals and objectives of the Platform. The MGA goals include:

- A model regional regulatory framework for CCS by 2010;
- A multi-jurisdictional pipeline sited and permitted to transport CO<sub>2</sub> from a source to an appropriate reservoir for use in an EOR project by 2012;
- At least 7 pre and post-combustion coal plants with CCS in operation by 2015;
- All new coal gasification and coal combustion plants will capture and store CO<sub>2</sub> emissions by 2020; and
- The region's fleet of coal plants will have transitioned to CCS by 2050.

#### Adaptive approach

We support the adaptive approach to regulatory development where relevant data based on demonstrations and commercial scale projects will be used to determine if the rule continues to appropriately meet the Safe Drinking Water Act (SDWA) objectives and if not, that they will be revised (73 FR 43522). This language is included in the preamble, but it is not articulated in the language of the rule in terms of how the adaptive approach would be put into practice. As projects develop across different geologic formations and from various carbon sources, there will be increased knowledge and data on how to effectively manage these sites while meeting the objectives of the SDWA. It is not clear in the proposed rule by what method or mechanism the relevant knowledge and data would be collected by EPA and how the existing rule would be evaluated within the context of new information.

#### Enhanced oil recovery projects

Essential components of a comprehensive greenhouse reduction strategy for the Midwest include the opportunity for current and future properly managed CO<sub>2</sub>-EOR projects to make the transition to, and to be permitted as, long-term sequestration projects for anthropogenic CO<sub>2</sub> under EPA's proposed Class VI. Therefore, in order to fully utilize EOR sites as part of such a strategy, it will be important for EPA's proposed rule to make certain that CO<sub>2</sub>-EOR will continue uninterrupted and to provide CO<sub>2</sub>-EOR operators a clear, workable path for Class II wells used for CO<sub>2</sub>-EOR to become Class VI wells.

More generally, we urge that EPA take great care to avoid creating barriers to widespread commercial development of responsible CO<sub>2</sub>-EOR projects that make the transition to long-term sequestration. EOR is a necessary element of our strategy to develop a regional infrastructure to support commercial-scale deployment of CCS in the Midwestern region. Indeed, in some MGA jurisdictions with significant sequestration potential in oil and gas formations, EOR represents a major long-term GHG reduction strategy in its own right, as well as a bridge to help finance the infrastructure needed for deep saline aquifer sequestration. The EOR industry has significant, long-

standing commercial experience in CO<sub>2</sub> injection, and some MGA states have proven regulatory experience in managing CO<sub>2</sub> injection EOR projects, including projects using captured CO<sub>2</sub> that deliver net CO<sub>2</sub> reduction benefits, even after accounting for oil recovered. The Midwest needs a supportive federal regulatory environment to be able to leverage this experience to develop projects and to build the infrastructure necessary for the transport and injection of CO<sub>2</sub> into depleted oil and gas fields.

Role of states in GS regulation

Several of our states in the MGA region have experience with the injection of carbon dioxide through Class II and Class V wells. Further, some of our jurisdictions have experience with legal and regulatory aspects of managing CO<sub>2</sub> injection wells. We encourage the EPA to consider approval for states to obtain primacy for Class VI wells, independent of other well classes. The MGA agrees with the EPA in the preamble that this may encourage states to take a more comprehensive approach to managing each stage of a CCS project (e.g., capture, transportation, and sequestration) (73 FR 43523). Development of geologic sequestration projects will also require increased resources for implementation of the UIC program. Thus, we support increased federal support for state implementation of geologic sequestration regulation under the UIC program, and we urge EPA to recognize that need as well.

Thank you for your efforts to facilitate geologic sequestration. We respectfully request your consideration of our comments.

Sincerely,



M. Michael Rounds  
Governor of South Dakota and Chair,  
Midwestern Governors Association



Jennifer Granholm  
Governor of Michigan and Vice Chair,  
Midwestern Governors Association

cc: Lee Whitehurst, Office of Ground Water & Drinking Water